

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: KMC TELECOM V, INC.	DOCKET NO. FCU-03-3
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**ORDER TAKING OFFICIAL NOTICE, SUSPENDING CERTIFICATE, AND GIVING
NOTICE OF POSSIBLE REVOCATION OF CERTIFICATE**

(Issued January 9, 2003)

On December 23, 2002, the Utilities Board (Board) issued a local exchange certificate of public convenience and necessity to KMC Telecom V, Inc. (KMC), pursuant to Iowa Code § 476.29 (2001). The certificate was identified as Certificate No. 0260. The Board issued the certificate on the basis of KMC's application in Docket No. TCU-00-26 and its tariff, identified as TF-02-554.

In its application, filed May 8, 2000, KMC states that it "seeks the authority to provide a full range of facilities-based and resold local exchange telecommunications services to business customers to and from all points in the State of Iowa in the service areas currently served by U S WEST and GTE." (Application, paragraph 7.) KMC further states that it intends to offer basic residential and business lines, "Plain Old Telephone Service" (POTS), high-speed data services, and multi point-to-point protocol services to the public. (Application, paragraph 8.) Finally, KMC states that in addition to the above-listed local exchange services, it will offer dual party relay

services, 911/E911 emergency services, and directory assistance and operator-assisted calling, among other services. (Application, paragraph 9.)

In its tariff, KMC represents that it will offer "Basic Line Services" that include access to emergency services by dialing 0- or 911 and operator services such as person-to-person calling. (KMC Tariff at pp 35-40.)

On January 6, 2003, KMC applied to the North American Numbering Plan Administrator (NANPA) for the telephone numbering resources it would need to provide local services. As a part of that application, KMC filed a confidential document entitled "'Proposed Services' or 'Business Plan'" (the Business Plan) which describes the services KMC intends to offer in Iowa. The Board will take official notice of the Business Plan pursuant to Iowa Code § 17A.14(4).) In its Business Plan, KMC makes statements that are inconsistent with KMC's application to this agency for a certificate and are inconsistent with KMC's tariff as filed with the Board. Based on these Business Plan statements, it appears KMC is not proposing to offer voice-grade POTS-type services in Iowa; instead, it intends to provide Virtual NXX services, a proposed service that is the subject of a separate proceeding in consolidated Docket Nos. SPU-02-11 and SPU-02-13.

Based on the conflict between KMC's statements in its Business Plan and its representations to the Board in its application for a certificate, and on the similar conflict between KMC's Business Plan and its tariff, the Board is opening this docket to investigate whether KMC's certificate should be revoked, pursuant to Iowa Code § 476.29. Further, the Board will suspend KMC's certificate pending completion of

this docket. KMC will be given an opportunity to show cause why the Board should not find it in violation of the conditions of its certificate, or the terms of its tariff, or such provisions of chapter 476 and the Board's rules as may develop through the course of this proceeding. KMC will also be given an opportunity to show why the Board should not take appropriate action if such violations are found, including revocation of KMC's certificate of public convenience and necessity, rejection of its tariff, prohibition of other service providers from billing on behalf of the violators or providing exchange access services to them, seeking an injunction or other appropriate relief in district court, or such other action as may be appropriate.

Accordingly, with this order the Board is giving notice to KMC that its certificate of public convenience and necessity will be revoked, pursuant to Iowa Code § 476.29(9), unless KMC files a request for hearing or sufficient incontrovertible information to establish, without a hearing, that the certificate issued to KMC should not be revoked. KMC's request for hearing or supplemental information must be filed no later than January 22, 2003. In the absence of a satisfactory request for hearing, the Board will revoke the certificate of public convenience and necessity issued to KMC and direct all certificated local exchange service providers in Iowa not to provide facilities to or exchange communications traffic with KMC.

IT IS THEREFORE ORDERED:

1. Pursuant to Iowa Code § 476.3 (2001), the Utilities Board is initiating a formal proceeding to investigate the matters described in the body of this order. The proceeding will be identified as Docket No. FCU-03-3.

2. Pursuant to Iowa Code § 17A.14(4), the Board takes official notice of the "'Proposed Services' or 'Business Plan'" of KMC Telecom V, Inc., as filed with the North American Numbering Plan Administrator on January 6, 2003. The document will be a part of the Board's official record, but will be held confidential pursuant to the terms of 199 IAC 1.9 (2003).

3. Pursuant to Iowa Code § 476.29(9), KMC Telecom V, Inc., is notified that the certificate of public convenience and necessity issued to KMC on December 23, 2002, and identified as Certificate No. 0260, will be revoked unless, on or before January 22, 2003, KMC files a request for hearing containing detailed allegations of material issues of fact or law which, if resolved in KMC's favor, will establish that the KMC certificate should not be revoked.

4. Certificate No. 0260, issued to KMC on December 23, 2002, is suspended pending further order of the Board.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 9th day of January, 2003.